

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ROBERT V. TOWNES, IV, individually and)	
on Behalf of All Others Similarly Situated,)	
)	
Plaintiffs,)	
)	
v.)	C.A. No. 04-1488 (JJF)
)	Putative Class Action
TRANSUNION, LLC and TRUELINK, INC.,)	
)	
Defendants.)	
)	

**DEFENDANTS' RESPONSE TO
MOTION FOR APPOINTMENT OF INTERIM COUNSEL**

Defendants Trans Union, LLC and TrueLink, Inc. ("Defendants"), hereby submit their Response to Plaintiff's Motion for Appointment of Interim Counsel.

The primary basis for Plaintiff's motion for appointment of his counsel as interim counsel pursuant to Rule 23(g)(2)(A) of the Federal Rules of Civil Procedure is the existence of an action filed in the United States District Court for the Northern District of Alabama, *Rosser v. TrueLink, Inc. and Trans Union, LLC* Case No. 2:05-cv-00245-LSC. That action sues on behalf of a putative class similar to the proposed class, and naming the same defendants, as in this action under the federal Credit Repair Organizations Act ("CROA"), 15 U.S.C. § 1679 *et seq.* Neither of the two law firms representing plaintiff here are counsel for plaintiffs in the *Rosser v. TrueLink, Inc.* action. Plaintiff's supporting memorandum contends that designation of his counsel as interim counsel will eliminate "uncertainties" in the leadership of attorneys seeking to represent the putative class created by filing of *Rosser v. TrueLink, Inc.*. However, since the time plaintiff has filed his Motion to Appoint Interim Counsel, plaintiff in the *Rosser v. TrueLink, Inc.* on March 16, 2005, filed a notice of voluntary dismissal of the action pursuant to

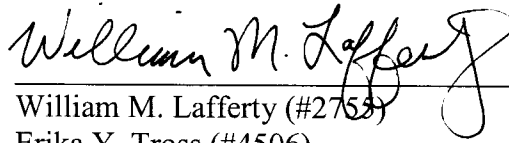
Rule 41(a)(1) of the Federal Rules of Civil Procedure. (See Notice of Dismissal attached as Exhibit A). Therefore, the stated basis for appointment of any counsel as interim counsel no longer exists.

A court may properly decide not to appoint interim class counsel. See Rule 23(g)(2)(A) (“The court may designate interim counsel to act on behalf of the putative class before determining whether the certified action is a class action”) (emphasis added). Due to voluntary dismissal of *Rosser v. TrueLink, Inc.*, the specter of competing class counsel in different actions is, at least for now, abated.

Defendants, however, recognize the potential efficiency and other benefits to having one law firm represent the interests of the putative class. Given that there apparently exists no other law firms which seek to represent the putative class, in the event the Court determines that the appointment of interim counsel is justified, the appointment of one of plaintiff’s law firms here as interim counsel would seem appropriate.¹ Defendants, however, reserve their right to oppose any later motion for class certification or for appointment of plaintiff’s counsel as permanent class counsel.

¹ Plaintiff requests that the Court appoint both law firms representing plaintiffs. However, as evidenced by the signature page of the motion itself, no less than eight lawyers in four cities purport to represent plaintiff and apparently seek appointment pursuant to Rule 23(g)(2)(A). In order to achieve the efficiency and cost reduction by the appointment of interim counsel, Defendants suggest that no more than two attorneys with one firm be appointed.

MORRIS, NICHOLS, ARSHT & TUNNELL

A handwritten signature in black ink, reading "William M. Lafferty". The signature is written in a cursive style with a large, stylized "L" and "Y".

William M. Lafferty (#2753)

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